

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DIRECT MARKETING CONCEPTS, INC., et
al.,

Defendants.

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) CIVIL ACTION NO. 04-CV-11136GAO
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EXHIBIT 12

Robertson, Christopher

From: Robertson, Christopher
Sent: Friday, September 16, 2005 10:47 AM
To: 'Glennon, Edward'
Cc: Brooks, Peter
Subject: RE: Transcripts of FTC Calls

Ed:

We are in receipt of the seven transcripts relating to undercover calls by FTC staff to the DMC call center. Will you please confirm whether these were the only calls that have been made by any staff member of the FTC to the DMC call center from June 2004 to the present, whether recorded or not. We requested this information in our document request in June, but have received no records sufficient to identify all calls from any member or employee of the FTC to DMC during the last year. This information is obviously relevant to the present motion and the underlying claims alleged by the FTC.

Chris

-----Original Message-----

From: Glennon, Edward [mailto:eglennon@ftc.gov]
Sent: Thursday, September 15, 2005 12:02 PM
To: Brooks, Peter; Robertson, Christopher
Subject: Transcripts of FTC Calls

September 15, 2005

Peter Brooks, Esq.
Christopher Robertson, Esq.
Seyfarth Shaw
Two Seaport Lane, Suite 300
Boston, MA 02210

Re: Federal Trade Commission v. Direct Marketing Concepts,
Inc., et al.,
Civ. No. 04-11136-GAO

Dear Peter and Chris:

Enclosed please find the first of seven unredacted (save for credit card information) transcripts of the Commission's undercover calls to DMC, which are responsive to DMC's second set of document requests. The remaining transcripts will be sent by separate emails. (Two previous emails attaching (1) all seven transcripts and (2) three transcripts were returned as undeliverable, presumably because of the size of the messages.) The seven transcripts are marked with the bates numbers FTCITV 027110 through 027219. We also will send you hard copies of all the transcripts by Federal Express. In providing these documents, the Commission does not waive its right to claim that certain information contained in the transcripts is protected by the law enforcement/investigative privilege.

As we discussed yesterday, and as noted in Chris' email to me from yesterday, the Commission is providing these documents upon the conditions that they be viewed only by Seyfarth attorneys Peter Brooks, Chris Robertson, and Sue Gelwick, and that these Seyfarth attorneys not share the transcripts, or any information contained within them, with any third-party, including Seyfarth's clients and those clients' in-house counsel. If Seyfarth intends to file any of these transcripts in court (e.g., as an exhibit to a brief) or to quote from them, it shall do so under seal. We understand that you have reserved the right

to move the Court to change the parameters of this arrangement.

Please give me a call with any questions.

Ed Glennon

Edward Glennon
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Enclosures

<<FTC Undercover Transcript 1.pdf>>